

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**FREEDOM FROM RELIGION
FOUNDATION, INC. and
JOHN ROE,
Plaintiffs,**

V.

**JUDGE WAYNE MACK in his personal
capacity and in his official judicial capacity
on behalf of the State of Texas,
Defendants.**

CASE NO. 4:19-cv-1934

**PLAINTIFFS' MOTION FOR LEAVE TO PROCEED USING PSEUDONYMS
AND FOR PROTECTIVE ORDER**

To the Honorable Judge of this Court:

1. Plaintiffs file this Motion for Protective Order contemporaneously with Plaintiffs' Complaint.
2. In this case, Plaintiffs bring claims under 42 U.S.C. § 1983, alleging that the Defendants have violated Plaintiffs' First Amendment rights.
3. Attorney John Roe requests permission to proceed pseudonymously based on (1) the fact that Plaintiffs are suing a government official who oversees a court in which Attorney Roe has practiced for years and in which he intends to practice again in the future; (2) the intimate nature of the claims in this case; (3) the fact that Plaintiffs' concerns are reasonable, based on the history of violence and intimidation waged against Establishment Clause plaintiffs; and (4) the reasonable expectation that Attorney Roe will be the victim of harassment, injury, and other serious harm if his identity becomes known to the public.
4. The basis for this request is laid out more fully in the Memorandum in Support filed

contemporaneously with this Motion.

5. In order to protect the identity of Attorney Roe, Plaintiffs have submitted, as part of the Proposed Order accompanying this Motion, a Protective Order that is designed to allow Defendants' attorneys and other essential personnel the opportunity to review identifying information that may be necessary to effectively defend the case, while protecting the identity of Attorney Roe. The Protective Order establishes protocol for the production of information that could identify Attorney Roe and the handling of identifying information Defendants produce. The proposed Protective Order is functionally identical to the Unopposed Protective Order entered in the previous lawsuit by FFRF and three pseudonymous individual plaintiffs against Judge Mack in his official capacity as a Montgomery County employee. *See* Unopposed Protective Order, *FFRF v. Mack*, No. 17-cv-881 (S.D. Tex. May 30, 2017) (document 20).

3. As argued in the Memorandum in Support, Plaintiffs' request that Attorney Roe be permitted to proceed pseudonymously should be granted under the framework established by *Doe v. Stegall*, 653 F.2d 180 (5th Cir. 1981).

4. The Proposed Order addresses Plaintiffs' concerns as to the handling of any identifying information, while ensuring that Defendants' attorneys will maintain the opportunity to review such information, subject to the terms of the Protective Order.

5. For the foregoing reasons, Plaintiffs respectfully request that their Motion for Leave to Use Pseudonyms and For Protective Order be granted.

Respectfully submitted,

/s/ Sam Grover

Sam Grover

Wisconsin State Bar No. 1096047

Elizabeth Cavell (*motion for admission pro hac vice pending*)

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